

## THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD ABOLISHMENT ACT

SEPTEMBER 17, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. LEACH, from the Committee on Banking and Financial Services, submitted the following

### R E P O R T

[To accompany H.R. 2343]

[Including cost estimate of the Congressional Budget Office]

The Committee on Banking and Financial Services, to whom was referred the bill (H.R. 2343) to abolish the Thrift Depositor Protection Oversight Board, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Thrift Depositor Protection Oversight Board Abolishment Act”.

#### SEC. 2. ABOLISHMENT OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) IN GENERAL.—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the Thrift Depositor Protection Oversight Board established under section 21A of the Federal Home Loan Bank Act (hereafter in this section referred to as the “Oversight Board”) is hereby abolished.

##### (b) DISPOSITION OF AFFAIRS.—

(1) POWER OF CHAIRPERSON.—Effective on the date of the enactment of this Act, the Chairperson of the Oversight Board (or the designee of the Chairperson) may exercise on behalf of the Oversight Board any power of the Oversight Board necessary to settle and conclude the affairs of the Oversight Board.

(2) AVAILABILITY OF FUNDS.—Funds available to the Oversight Board shall be available to the Chairperson of the Oversight Board to pay expenses incurred in carrying out the requirements of paragraph (1).

##### (c) SAVINGS PROVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this Act shall be construed as affecting the validity of any right, duty, or obligation of the United States, the Oversight Board, the Resolution Trust Corporation, or any other person which—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and  
 (B) existed on the day before the abolishment of the Oversight Board in accordance with subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board with respect to any function of the Oversight Board shall abate by reason of the enactment of this Act.

(3) LIABILITIES.—

(A) IN GENERAL.—All liabilities arising out of the operation of the Oversight Board between August 9, 1989, and the end of the 3-month period beginning on the date of enactment of this Act shall remain the direct liabilities of the United States.

(B) NO SUBSTITUTION.—The Secretary of the Treasury shall not be substituted for the Oversight Board as a party to any such action or proceeding.

(4) CONTINUATIONS OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS PERTAINING TO THE RESOLUTION FUNDING CORPORATION.—

(A) IN GENERAL.—All orders, resolutions, determinations, and regulations regarding the Resolution Funding Corporation which—

(i) have been issued, made, and prescribed, or allowed to become effective by the Oversight Board, or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(ii) are in effect at the end of the 3-month period beginning on the date of the enactment of this Act,

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations until modified, terminated, set aside, or superseded in accordance with applicable law.

(B) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS BEFORE TRANSFER.—Before the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under section 3, all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the United States.

(C) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS AFTER TRANSFER.—On and after the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury, all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the Secretary of the Treasury.

#### **SEC. 3. TRANSFER OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AUTHORITY AND DUTIES OF RESOLUTION FUNDING CORPORATION TO THE SECRETARY OF THE TREASURY.**

The authority and duties of the Thrift Depositor Protection Oversight Board under sections 21A(a)(6)(I) and 21B of the Federal Home Loan Bank Act are hereby transferred to the Secretary of the Treasury (or the designee of the Secretary) as of the end of the 3-month period beginning on the date of enactment of this Act.

#### **SEC. 4. MEMBERSHIP OF THE AFFORDABLE HOUSING ADVISORY BOARD.**

Effective on the date of enactment of this Act, section 14(b)(2) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

#### **SEC. 5. TIME OF MEETINGS OF THE AFFORDABLE HOUSING ADVISORY BOARD.**

(a) IN GENERAL.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(1) by striking “4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board or” and inserting “2 times a year or at the request of”; and

(2) by striking the 2d sentence.

(b) CLERICAL AMENDMENT.—The heading for section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended by striking “AND LOCATION”.

## PURPOSE AND SUMMARY

As its title suggests, the purpose of H.R. 2343, the Thrift Depositor Protection Oversight Board Abolishment Act (the Act), is to abolish the Thrift Depositor Protection Oversight Board (the Oversight Board). The Oversight Board is no longer needed given that its primary responsibilities of overseeing the Resolution Trust Corporation (RTC) was extinguished with the sunset of the RTC on December 31, 1995.

The Oversight Board was first created in the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) in 1989. FIRREA was the federal government's response to the massive financial crisis of the savings and loan industry and its insolvent insurance fund, the Federal Savings and Loan Insurance Corporation. With the enactment of FIRREA, the Resolution Trust Corporation was created to close or sell the failed institutions transferred to it by the industry's new regulator, the Office of Thrift Supervision (OTS). Further, the RTC was tasked with selling the assets of failed thrifts. FIRREA also established the Resolution Funding Corporation (REFCorp), a mixed-ownership government corporation, for the purpose of providing financing for the RTC. The Oversight Board was created to oversee the RTC and its use of taxpayer funds, as well as the direct activities of REFCorp. The Oversight Board was charged with reviewing the RTC's overall strategies, policies, and goals and continuing to approve the RTC's financial plans, budgets, and financing requests. In addition, the Oversight Board was responsible for reviewing how effective the RTC managed and disposed of its enormous asset caseload, and for ensuring that the RTC was formulating and implementing policies responsive to various goals, such as closing insolvent thrifts at the least possible cost.

With the termination of the RTC on December 31, 1995, the Oversight Board's remaining programmatic responsibilities are: (1) oversight of the REFCorp; and (2) through fiscal year 1998 (October 1998), a non-voting membership on the Affordable Housing Advisory Board. The Affordable Housing Advisory Board, chaired by the designee of the Secretary of HUD, advises the FDIC on policies and programs related to the provision of affordable housing property, and sunsets on September 30, 1998. In addition, as long as the Oversight Board remains in existence, it has continuing administrative and reporting functions that will continue until the year 2030 when the last REFCorp bond matures.

The Oversight Board's remaining programmatic tasks are formal and routine. However, as a separate governmental unit, the Oversight Board must generate all the regularly mandated agency filings in the course of performing its oversight of REFCorp. The legislation would transfer the REFCorp oversight responsibilities to the Secretary of the Treasury, and the Affordable Housing Advisory Board would be restructured to eliminate the non-voting seat held by the Oversight Board. Elimination of the Board could save over \$250,000 a year in personnel and overhead costs for each of the remaining 33 years of the Board's life. In addition, H.R. 2343 would reduce the number of meetings the Affordable Housing Advisory Board must hold each year from four to two and delete the statu-

tory requirement of having these meetings throughout the United States.

#### LEGISLATIVE BACKGROUND AND HEARINGS

Representative Leach introduced H.R. 2343 at the request of the Treasury Department on July 31, 1997. The full Committee held a hearing on H.R. 2343 on September 9, 1997. Testifying before the Committee was John Hawke, Treasury Under Secretary for Domestic Finance.

#### COMMITTEE CONSIDERATION AND VOTES

On September 9, 1997, the Committee met in open session to mark up H.R. 2343, "The Thrift Depositor Protection Oversight Board Abolishment Act." The Committee considered one amendment to the bill, accepting it by voice vote.

The Committee then favorably reported H.R. 2343, and amended, to the full House by voice vote with a quorum present.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings and recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(d) of rule XI of the Rules of the House of Representatives.

#### CONSTITUTIONAL AUTHORITY

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the constitutional authority for Congress to enact this legislation is derived from the interstate commerce clause (Clause 3, Section 8, Article I); the power "to coin money" and "regulate the value thereof" provided for in Clause 5, Section 8, Article I; the power to borrow money on the credit of the United States under Clause 2, Section 8, Article I; and the power to tax and spend for the general welfare of the United States under Clause 1, Section 8, Article 1.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## CONGRESSIONAL ACCOUNTABILITY ACT

The reporting requirement under section 102(b)(3) of the Congressional Accountability Act (P.L. 104-1) is inapplicable because this legislation does not relate to terms and conditions of employment or access to public services or accommodations.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE AND UNFUNDED MANDATES ANALYSIS

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 17, 1997.*

Hon. JAMES A. LEACH,  
*Chairman, Committee on Banking and Financial Services, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2343, a bill to terminate the Thrift Depositor Protection Oversight Board, and for other purposes.

If you wish further details on these estimates, we will be pleased to provide them. The CBO staff contact is Mary Maginniss.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosures.

*H.R. 2343—A bill to terminate the Thrift Depositor Protection Oversight Board and for other purposes*

H.R. 2343 would dissolve the Thrift Depositor Protection Oversight Board and transfer its remaining responsibilities to the Department of the Treasury. The bill would also reduce from four to two the number of annual meetings the Affordable Housing Advisory Board must hold each year. CBO estimates that enacting H.R. 2343 would result in savings of about \$250,000 annually. Because the bill would affect direct spending, pay-as-you-go procedures would apply. H.R. 2343 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform act and would not affect the budgets of state, local, or tribal governments.

Current law requires the Oversight Board to monitor the operations and to provide funding for the Resolution Trust Corporation (RTC). The RTC was a temporary agency established to resolve thrift failures beginning in 1989. In late 1995 the RTC was dissolved and its remaining assets transferred to the Federal Deposit Insurance Corporation. The Oversight Board now retains responsibility for only two functions. The first is to oversee operations of the Resolution Funding Corporation (REFCORP), which issued bonds totaling \$30 billion from 1989 to 1991 as part of RTC's initial funding. Second, the Oversight Board also retains a nonvoting membership, through the end of 1998, on the Affordable Housing Advisory Board. By terminating the Oversight Board, the bill would eliminate the annual costs for the one employee of the board who prepares periodic reports required of all distinct entities of the government and performs other routine functions.

Based on information from the Treasury, transferring the statutory responsibilities of the Oversight Board to the Treasury would result in savings of about \$250,000 annually and no significant additional cost to the Treasury. Because the Board has authority to pay its expenses without further appropriation, enacting the bill would reduce direct spending by an estimated \$250,000 annually. Spending by the Treasury to carry out the routine functions of the Oversight Board would be subject to appropriation, and is expected to be minimal in any case. Reducing the number of times the Affordable Housing Advisory Board must meet annually is not expected to result in any significant savings.

The CBO staff contact for this estimate is Mary Maginniss. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

## SECTION-BY-SECTION ANALYSIS

### SECTION 1. SHORT TITLE

Section 1 designates the bill as the “Thrift Depositor Protection Oversight Board Abolishment Act.”

### SECTION 2. ABOLISHMENT OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Section 2 gives the Chairperson of the Oversight Board the power to settle and conclude the affairs of the Oversight Board. These powers include the ability to pay expenses incurred in carrying out the closing. This section also allows the Secretary of the Treasury to continue all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation. In addition, the enforceability of orders, resolutions, determinations and regulations is transferred to the Secretary of the Treasury.

### SECTION 3. TRANSFER OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AUTHORITY AND DUTIES OF RESOLUTION FUNDING CORPORATION TO THE SECRETARY OF THE TREASURY

Section 3 transfers all authority and duties of the Thrift Depositor Protection Oversight Board to the Secretary of the Treasury three months after the date of enactment.

### SECTION 4. MEMBERSHIP OF THE AFFORDABLE HOUSING ADVISORY BOARD

Section 4 eliminates the Chairperson of the Thrift Depositor Protection Oversight Board as a member of the Affordable Housing Advisory Board.

### SECTION 5. TIME OF MEETINGS OF THE AFFORDABLE HOUSING ADVISORY BOARD

Section 5 amends the Congressional meeting mandates of the Affordable Housing Advisory Board to reduce the number of required annual meetings from four to two, and also eliminates the requirement for the Board to meet in different locations throughout the United States.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## SECTION 14 OF THE RESOLUTION TRUST CORPORATION COMPLETION ACT

## SEC. 14. CHANGES AFFECTING BOTH RTC AND FDIC AFFORDABLE HOUSING PROGRAMS.

(a) \* \* \*

\* \* \* \* \*

(b) AFFORDABLE HOUSING ADVISORY BOARD.—

(1) \* \* \*

(2) MEMBERSHIP.—The Advisory Board shall consist of—

(A) the Secretary of Housing and Urban Development;

(B) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation (or the Chairperson's delegate), who shall be a nonvoting member;

[(C) the Chairperson of the Thrift Depositor Protection Oversight Board (or the Chairperson's delegate), who shall be a nonvoting member;]

[(D)] (C) 4 persons appointed by the Secretary of Housing and Urban Development not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, who represent the interests of individuals and organizations involved in using the affordable housing programs (including nonprofit organizations, public agencies, and for-profit organizations that purchase properties under the affordable housing programs, organizations that provide technical assistance regarding the affordable housing programs, and organizations that represent the interest of low- and moderate-income families); and

[(E)] (D) 2 persons who are members of the National Housing Advisory Board pursuant to section 21A(d)(2)(B)(ii) of the Federal Home Loan Bank Act (as in effect before the effective date of the repeal under subsection (c)(2)), who shall be appointed by such Board before such effective date.

\* \* \* \* \*

(6) MEETINGS.—

(A) TIMING [AND LOCATION].—The Advisory Board shall meet [4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board or] 2 times a year or at the request of the Board of Directors of the Federal Deposit Insurance Corporation. [In each year, the Advisory Board shall conduct such meetings at various locations in different regions of the United States in which substantial residential property assets of the Federal Deposit Insurance Corporation or the Resolution Trust Corporation are located.] The first meeting of the Advisory

Board shall take place not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(B) ADVICE.—The Advisory Board shall submit information and advice resulting from each meeting, in such form as the Board considers appropriate, to the Thrift Depositor Protection Oversight Board and the Board of Directors of the Federal Deposit Insurance Corporation.

\* \* \* \* \*

